

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:11CR26
	§	
CHARLES WHANG	§	

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 30, 2011, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by James Peacock.

On December 12, 2008, Defendant was sentenced by the Honorable Joan H. Lefkow, United States District Judge, to a sentence of 90 days imprisonment followed by a 3-year term of supervised release, for the offense of knowingly using, with intent to defraud, and unauthorized access device. The term of supervised release was revoked on June 9, 2010, and Defendant was sentenced to one day – considered time served followed by a 30 month of supervised release. Supervision originally commenced on August 5, 2009. Following his revocation, the new term of supervised release started on June 9, 2010. The case was reassigned to the Honorable Richard A. Schell, United States District Judge, on April 8, 2011.

On April 8, 2011, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 4). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (2) Defendant shall notify the probation officer at least ten days prior to any change in residence or employment; (3) Defendant shall complete a mental health assessment at the direction of the probation officer, and comply with any and all treatment recommendations; (4) Defendant shall provide the probation officer with access to requested financial information; and (5) Defendant shall pay \$144,204.55 restitution in monthly installments of 10% of net monthly income beginning upon Defendant’s term of supervised release.

The Petition alleges that Defendant committed the following violations: (1) Defendant failed to report to the U.S. Probation Office on October 22, 2010, November 15, 2010, and January 5, 2011. He also failed to submit written monthly reports for the months of August, September, October, November, December 2010, January and February 2011; (2) Defendant failed to report a change in employment at Mr. Jim’s Pizza, Frisco, TX, ten days prior to the change. During an office visit on December 20, 2010, he reported a lay off from his job in October 2010; (3) On December 20, 2010, Defendant was referred to Jeffery Fletcher, Richardson, TX, for mental health counseling and Dr. Thomas Grugle, for psychiatric assessment. Defendant has failed to contact either treatment provider; (4) Defendant failed to submit a personal financial statement as directed on July 2, 2010, August 31, 2010, and October 28, 2010; and (5) Defendant has failed to make restitution payments for the months of July, August, September, October, November, December 2010, January and February 2011.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release.

**RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the August 30, 2011 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with 24 months supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas, if appropriate.

**SIGNED this 23rd day of September, 2011.**

  
\_\_\_\_\_  
DON D. BUSH  
UNITED STATES MAGISTRATE JUDGE